

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Review Item:

Revisions to assessment regulations to align the school reconfiguration notice deadline to coincide with earlier release of scores and to incorporate additional Federal flexibility:

703 KAR 5:001, Assessment and accountability definitions

703 KAR 5:020, The formula for determining school accountability

703 KAR 5:130, School district accountability

Applicable Statute or Regulation:

703 KAR 5:001; 703 KAR 5:020; 703 KAR 5:130

History/Background:

Existing Policy. The 2001 re-authorization of the Elementary and Secondary Education Act of 1965 was signed into federal law January 8, 2002. Characterized in the statute as, "An Act to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind," it carries the short title, "No Child Left Behind Act of 2001."

Like Kentucky, many states have modified and/or supplemented their student assessments to comply with the federal statute and now use assessment results to make both federal and state accountability decisions. Kentucky has retained its accountability system, while complying with the federal mandate. It accomplishes this through a two-dimensional system in which state and federal requirements are complementary. After the first year No Child Left Behind (NCLB) was implemented, the United States Department of Education (USDOE) granted more flexibility to states, and this process is continuing.

Staff proposes four changes for the Board to consider that would impact Adequate Yearly Progress (AYP) determinations. The changes require amended language in three assessment and accountability administrative regulations. The four proposed changes are notification of reconfiguration, multi-year averaging in participation rate calculations, rolling average of Annual Measurable Objectives (AMOs), and attendance rate as the other academic indicator at the elementary and middle school levels. Only the last three affect Kentucky's Federal accountability workbook and would require federal approval. Multi-year averaging in participation rate was considered at the February 2005 meeting. However, the other proposals are new to the Board.

Proposal 1: This proposal is brought forward for consideration in order to align the school reconfiguration notice deadline to coincide with earlier score releases for both CATS and NCLB. It does not require Federal approval. Schools are currently required to notify the Kentucky Department of Education when a school reconfigures to form a new school by September 30 of the year in which the reconfiguration occurs. This notification is too late to be reflected in NCLB reporting in early August. Because a reconfigured school is a new school in the accountability system, consequences for NCLB reporting are not applicable to the newly reconfigured school. An earlier notification date of June 30 of the year the reconfiguration is to occur will allow consequences to reflect the current

school reconfiguration. The proposed language to amend regulation 703 KAR 5:020, The formula for determining school accountability, would be as follows:

- 703 KAR 5:020 Section 6 (3). A school district shall notify the Department of Education of any school that is planning for the upcoming school year to be a reconfigured school as provided in this administrative regulation by June 30 prior to the beginning of the school year in which the reconfiguration is to occur.

Proposal 2: Multi-year averaging in Participation Rate calculations was offered as additional flexibility in a letter from the office of Education Secretary Rod Paige to Chief State School Officers dated May 19, 2004 (see Attachment A). Staff proposes to formalize this flexibility offered to all states through amending 703 KAR 5:020, The formula for determining school accountability and 703 KAR 5:130, School district accountability. The number of years of data for determining Participation Rate may vary from school to school since an average of one, two, or three years of data is used to reach ninety-five percent. This proposed change was introduced as a review item at the February meeting of the Kentucky Board of Education. This same criterion was applied to the preliminary 2004 NCLB reports released in August and the final 2004 NCLB reports released in October. The proposed language for the regulations is as follows.

- 703 KAR 5:020 Section 10 (4)(d) and 703 KAR 5:130 Section 8 (4)(d). Participation rate may be computed for the current year, or, as an average of the most recent two (2) or three (3) years, to reach ninety-five (95) percent.

Proposal 3: NCLB permits states to use a rolling average when calculating Annual Measurable Objectives (AMOs) for reading and mathematics. Kentucky did not initially apply this design to the calculation of data because the Kentucky Board of Education and Kentucky Department of Education were seeking permission from the USDOE for a biennial reporting structure that would align with the biennial structure of the state accountability model. This request was ultimately denied. After researching the approaches used by other states and since Kentucky is using annual reporting for federal Adequate Yearly Progress purposes, staff proposes to pursue the application of a rolling average for the calculation of AMOs. Operationally for a school, if all students and each student subpopulation of sufficient size meet their AMOs for reading and mathematics, only current year data is used. For each student group that fails to meet an AMO on current year data, the AMO will then be based upon two years of data. For each student group that fails to meet an AMO based on two years of data, the AMO will be based upon three years of data. Note that the confidence interval is based on the same set of data as the AMO. The following language is proposed to amend existing regulations.

- 703 KAR 5:020 Section 10 (2). If a school does not meet an annual measurable objective based on the current year aggregated average of the performance of the elementary, middle, or high school students, the aggregated average will be computed based on the most recent two (2) or three (3) years of student performance data in reading and mathematics.
- 703 KAR 5:020 Section 10 (8) (b). If more than the current year aggregated average of the performance of the elementary, middle, or high school students is used to compute an annual measurable objective, the confidence interval shall also be based upon the same most recent two (2) or three (3) years of student performance data as the aggregated average is based.
- 703 KAR 5:130 Section 8 (2). If a district does not meet an annual measurable objective based on the current year aggregated average of the performance of the elementary, middle, or

high school students, the aggregated average will be computed based on the most recent two (2) or three (3) years of student performance data in reading and mathematics.

- 703 KAR 5:130 Section 8 (6) (b). If more than the current year aggregated average of the performance of the elementary, middle, or high school students is used to compute an annual measurable objective, the confidence interval shall also be based upon the same most recent two (2) or three (3) years of student performance data as the aggregated average is based.

Proposal 4: NCLB requires states to use graduation rate for the other academic indicator at the high school level, but allows states to establish values at the elementary and middle school levels. The Kentucky Board of Education previously decided to use the prior year Accountability Index as the other academic indicator at the elementary and middle school levels because the Board believed it linked NCLB to Kentucky's Commonwealth Accountability Testing System (CATS) and reflected school performance in all academic areas and non-academic areas. The Board was concerned that NCLB requirements would shift the focus of schools to reading and mathematics reducing the emphasis on other content areas. Now with two years of NCLB reporting and CATS results, it appears that schools continue to value all content areas reported with CATS and that Board objectives around student achievement can be reached without the link of the prior year accountability index to NCLB. After using the prior year Accountability Index in calculating AYP, it has been observed that schools can already predict whether this factor will prevent them from making AYP before current year AMO calculations are carried out. Repeated contacts with the field have made it clear that knowing your school has no chance of making AYP before any other factors are considered is extremely demoralizing and seems very self-defeating.

In an effort to see if another measure for the other academic indicator exists that does not have unintended negative impacts on school culture, Kentucky Department of Education staff researched how other states are approaching this matter. Staff found that thirty-seven states and the District of Columbia are using target attendance rates as the other academic indicator at the elementary and middle school levels, mainly because it is a more comparable measure to graduation rate, the other academic indicator applied at the high school level. Staff proposes that to be successful on the other academic indicator at elementary and middle school level, a school and district would need to have an attendance rate at or above 90% or have demonstrated improvement from the previous year of at least one-tenth (0.1) of one percent. Staff proposes changes to regulations 703 KAR 5:001, Assessment and accountability definitions, 703 KAR 5:020, The formula for determining school accountability and 703 KAR 5:130, School district accountability as follows:

- 703 KAR 5:001 Section 1 (11) (b), (12) (b) and 13 (b). A current year attendance rate at or above ninety (90) percent or improvement from the previous year by at least one tenth (0.1) of a percent.
- 703 KAR 5:001 Section 1 (17). "Attendance rate" means rate of school attendance by students.
- 703 KAR 5:020 Section 10 (2) (b) and 703 KAR 5:130 Section 8 (2) (b). Attendance rates
- 703 KAR 5:020 Section 10 (4) (b). The school showed progress or met the target goal for attendance rates at the elementary and middle school accountability levels as defined in 703 KAR 5:001;

- 703 KAR 5:130 Section 8 (4) (b). The district showed progress or met the target goal for attendance rates at the elementary and middle school accountability levels as defined in 703 KAR 5:001;

Impact on AYP Results: Staff in the Office of Assessment and Accountability have conducted data simulations to see the impact on 2004 NCLB data of the proposed changes in the calculation of rolling average of the AMOs (Proposal 3) and attendance rate as the other academic indicator (Proposal 4). The rolling average calculation would change eight (8) schools and three (3) districts to making AYP that did not make AYP in 2004. A current year attendance rate of at least ninety percent or improvement from the prior year would move one (1) school to not making AYP, but 109 schools and eight (8) districts would change to making AYP. If both rolling average of AMOs and attendance rate are applied to 2004 data, one (1) school would change to not making AYP, but 120 schools and eleven (11) districts would then make AYP.

Policy Issues:

KDE staff needs direction on which of the above proposals the Board desires to bring back to the June meeting for final approval.

Impact on Getting to Proficiency:

Decisions must be made by the KBE to maintain an assessment and accountability system for Kentucky that continues components valued in Kentucky's current system, incorporates NCLB components, and keeps the focus on a high quality of education for all students. Balancing the need to include all students in the assessment and accountability programs with the rigorous demands of NCLB will add to the credibility of Kentucky's two-dimensional system in which state and federal requirements are complementary.

Groups Consulted and Brief Summary of Responses:

School Curriculum, Assessment and Accountability Council (SCAAC)
National Technical Panel on Assessment and Accountability (NTAPAA)

The input of SCAAC will be reported at the April meeting. NTAPAA will consider these proposals at their June meeting prior to final approval of the regulation amendments on June 8-9.

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Deputy Commissioner

Commissioner of Education

Date:

April 2005

Attachment A
Letter from USDE Secretary Paige to
Chief State School Officers May 19, 2004

ELEMENTARY & SECONDARY EDUCATION

Calculating Participation Rates

Flexibility When Making Adequate Yearly Progress Determinations

May 19, 2004

Dear Chief State School Officer:

In the coming months, States will be making this year's adequate yearly progress (AYP) determinations. I am writing today to elaborate on the flexibility in participation rate calculations that are included in those determinations. This letter is a follow-up to the Secretary's announcement regarding participation rates that occurred on March 29, 2004.

In calculating a school or local educational agency's (LEA) participation rate, the rate must be calculated separately for reading/language arts and for mathematics. As part of its accountability plan, each State has set a minimum group size to determine whether a subgroup is sufficiently large to produce a statistically reliable participation rate for its AYP calculation. Therefore, if a school or subgroup does not meet the minimum group size set by the State for participation, a participation rate does not need to be calculated for that school or subgroup. We encourage, however, in those instances where the entire school population in the tested grades is less than this minimum group size that States check (through their small school review processes) overall participation within the school to ensure students are taking the statewide assessments.

In addition, most States have sufficiently wide testing "windows" that, if a student misses an assessment, the student can take a make-up test that would still count positively towards the school's participation rate. We encourage States to provide students with these opportunities; if a State currently does not permit make-up tests, the State has the authority to expand its testing window to ensure that every student has an opportunity to participate. We know there may be circumstances beyond a LEA's control, however, when a student cannot be assessed at any time during the testing window due to a significant medical emergency (e.g., a student is hospitalized due to an accident). In these cases, we do not believe the school or LEA should be penalized for that student's absence due to the documented significant medical emergency. Therefore, when determining the percentage of students taking an assessment, States do not have to include a student with a significant medical emergency in the participation rate calculation. States desiring to use this flexibility are responsible for determining what constitutes a significant medical emergency.

Lastly, I would like to describe an additional option that will address the few instances when a school may not make AYP because a small number of students were neither able to participate in an assessment nor able to make up the assessment. As you know, the law permits the use of a uniform averaging procedure over a three-year period to determine AYP. This flexibility applies not only to assessment results, but also to participation rates for subgroups of a school or LEA over a period of up to three years. Consequently, if a school is making AYP for all its subgroups and generally has a high participation rate, but in one year a particular subgroup drops slightly below 95 percent, that school or LEA may be able to make AYP if its multiyear participation rate average is at least 95 percent.

If your State wishes to adopt a policy to deal with significant medical emergencies, please submit to my office a formal amendment to your accountability plan detailing the criteria you would use to define such an emergency. Likewise, if you elect to use the multi-year averaging procedure for participation rate calculations, you should also amend your plan. These amendments, if not already submitted, should be presented to us as soon as possible.

I hope you find this guidance to be helpful as you finalize your preparations for AYP calculations this year. Please do not hesitate to contact my staff at (202) 401-0113 if you have any questions.

Sincerely,

Raymond Simon
Assistant Secretary
Office of Elementary and Secondary Education